

AG Contract No. KR02-1677TRN
ECS File: JPA 02-058 **Amendment #1**
PROJECT No.: TEA-077-A(2)A 077 PN 114
TRACS No.: H 5697 01D, 01C
Section: SR 77, MP 114.15 -MP 115.33
5 year Item: 75201

**AMENDMENT NO. ONE
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF MAMMOTH

THIS AMENDMENT, entered into 19 September 2003, **Amendment Number 1** to JPA 02-058, AG Contract No.: KR02-1677TRN, filed with the Secretary of State under No. 25529, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF MAMMOTH, acting by and through its MAYOR and TOWN COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

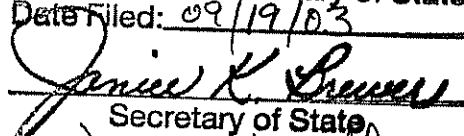
2. The City is empowered by Arizona Revised Statutes Section 9-240 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City

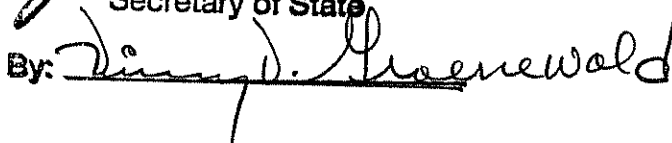
The parties desire to amend the above referenced Agreement to be responsible for the lighting and electrical costs for the sidewalks and landscaping area.

THEREFORE THE AGREEMENT IS AMENDED AS FOLLOWS:

Recital 3 is deleted and replaced with the following language:

3. The State and the Town desire to participate in the design, construction and maintenance of sidewalks and landscaping along SR 77, MP 114.15 to MP 115.33 **The Town will be responsible to provide electrical services and maintenance for the sidewalks and landscaping areas**, hereinafter referred to as the Project, for the safety and benefit of the traveling public. The parties hereto agree that the State shall be the lead agency for the Project.

#0/
NO. 25529
Filed with the Secretary of State
Date Filed: 09/19/03

Secretary of State

By: 

II. SCOPE OF WORK

The following shall replace Article II.1.b:

b. Provide electrical energy and water service for the contractor's convenience to install the landscape enhancements. Upon completion of the project, provide electrical energy and water service for the maintenance and operation of the landscape enhancements, all at the Town's expense. **Provide an electrical point of connection for the pedestrian lighting and all electrical power necessary to operate the lighting system at it's own expense.** Upon completion, approve and accept the project on behalf of the parties hereto, the Town hereby agrees to maintain the landscaping **and lighting**. Care for and maintain all landscaping in accordance with accepted horticultural practices. Keep all areas free of weeds, undesirable grasses and litter, applying irrigation water. Furnish and apply insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the project. Not make any changes, additions or deletions without written approval of the State. Conduct all maintenance work in a manner to minimize traffic congestion and interference with through traffic. Control all traffic to meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual." Grant the State rights-of-entry access outside the State's right-of-way as required to perform inspection of the maintenance work by Town forces of the project.

Article III. 8 & 9 has been added to the following language:

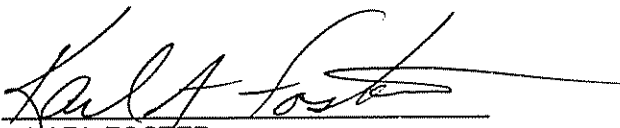
8. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

EXCEPT AS AMENDED HEREIN, ALL OTHER terms and conditions of the original agreement remain in full force and effect.

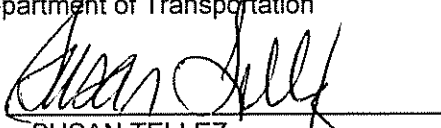
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF MAMMOTH

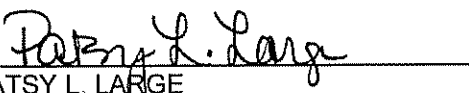
By 
KARL FOSTER
Mayor

STATE OF ARIZONA

Department of Transportation

By 
SUSAN TELLEZ
Contract Administrator

ATTEST

By 
PATSY L. LARGE
Town Clerk

G: 02-058- Sidewalk, Landscaping-Town Mammoth
09July 2003 ly

JPA 02-058

APPROVAL OF THE TOWN OF MAMMOTH ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF MAMMOTH and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 19th day of August, 2003



Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

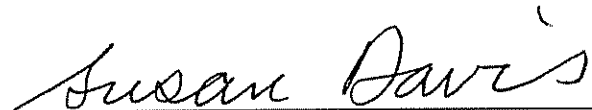
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-1677TRN (JPA 02-058), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED September 10, 2003.

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.

TOWN OF MAMMOTH MINUTES OF A REGULAR MEETING AUGUST 19, 2003

Minutes of the Regular Meeting of the Town of Mammoth held August 19, 2003 pursuant to the notice required by law.

Note: Due to public attendance being greater than maximum allowed in the Council Chambers at 125 North Clark Street, the meeting was relocated to the Mammoth gymnasium on West Dungan Drive in Mammoth.

1. Call to order

Mayor Foster called the meeting to order at 6:40 p.m.

2. Pledge of Allegiance

Mayor Foster led the Pledge of Allegiance

3. Roll Call

COUNCIL MEMBERS PRESENT

Councilwoman Bailey
Councilman Goff
Councilman Baugher
Vice Mayor Barcelo
Councilman Tamayo
Councilwoman Ramirez
Mayor Foster

STAFF PRESENT

Patsy Large, Town Clerk
Mildretha Taylor, Librarian
Michael Ballard, Police Chief
Joseph R. Georgini, Attorney

STAFF ABSENT

Juan Ponce, PW Director

4. Consent Agenda

- A. Approval of Minutes
 1. Minutes of July 15, 2003
- B. Approval of Staff Recommendations and Reports
 1. Town Clerk /Treasurer's Report
 2. Police Report
 3. Magistrate Report
 4. Public Works Report
 5. Library Report
 6. Attorney's Report
- C. Approval of Accounts Payable for Payment and Filing
- D. Request from Department Heads regarding any purchases over \$250.00 or overnight trips

Councilman Baugher motioned to remove the Treasurer's Report to discuss separately. Seconded by Councilwoman Ramirez. Motion passed unanimously.

Vice Mayor Barcelo motioned to approve the consent agenda removing the Treasurer's Report for further discussion. Seconded by Councilman Tamayo. Motion passed unanimously.

Councilman Baugher motioned to approve the corrected Treasurer's Report, as discussed in the Study Session, at a future meeting. Seconded by Councilwoman Ramirez. Motion passed unanimously.

5. New business Discussion and/or action on the following:

A. Surveyor's Report – Property behind the Circle K. – Norm Wisner

Norm Wisner advised the Council that he had completed the surveying on the property behind the Circle K. He stated that at one time there was an easement for a street accessible from Highway 77, but was turned back to Mr. Wasko, and if the Town wishes to use the property they would need permission from Mr. Wasko.

No action taken.

B. Beer Permit for Fiesta at Catholic Church – Rep. From Church

Sister Maria Canez requested approval to sell beer at the upcoming fiesta at the Catholic Church on September 12 & 13.

Councilwoman Ramirez motioned to allow the Catholic Church sell beer on September 12-13 during the fiesta. Seconded by Councilwoman Bailey. Motion passed unanimously.

C. 1973 Town Ordinance #45 – Antonio Luca

Mr. Luca was not present.

No action taken.

D. Landfill Remediation – Ernest Bustamante

Mr. Bustamante stated that he was still working on the remediation of a rifle range facility at the Mammoth Landfill. Some of the possible uses that he mentioned were clay trap target practice, target range, and range firing for certification. Mr. Bustamante thanked the Council for their continued support in the rifle range.

No action taken.

E. Appoint member to the Planning and Zoning Committee- Mayor Foster

Mayor Foster stated that only one letter of interest was received for the vacant position on the Planning and Zoning Committee. That letter was from Mr. Howard Kartchner. Therefore, Mayor Foster appointed Mr. Kartchner to the Planning and Zoning Committee.

F. FY 2003-04 Uniform Supplier for the Public Works -- Open sealed quotes – Council

Mayor Foster opened the sealed quotes. The quotes were circulated among the Council members and Mayor Foster asked that copies be made for the Council to review and discuss at a future meeting.

Mr. Jeff Ziedman from Prudential Overall Supply explained the pricing listed on the quote.

G. Commissioners – Clarification of Roles as Commissioners – Councilman Baugher

Councilman Baugher requested clarification of the roles of Commissioners.

Mr. Georgini, Town's Attorney, stated that the role is to act a liaison between the Department Head and the Employee. The Commissioner cannot hire or fire an employee, but can write memorandums to help with morale.

and productiveness and submit and accept grievances but cannot make decisions as a Department Head and cannot supervise the department. Mr. Georgini stated that definitions and Resolution No. 260 may be amended if the Council chooses.

Vice Mayor Barcelo stated that under circumstances the commissioners may fire an employee, such as when alcohol is an issue or for the safety of the Town.

Mr. Georgini stated that Resolution 260 does not reflect that a commissioner may hire or fire an employee. He also stated that he would provide copies of a letter that he received from Councilman Baugher requesting clarification of the roles of commissioners.

No Action Taken

H. Arizona Department of Transportation Project-Accept Maintenance Agreement – Patsy Large

Mayor Foster explained to the Council that the agreement from the Arizona Department of Transportation states that the Town of Mammoth will maintain the multi-purpose trail and pay the electrical costs for the streetlights along Highway 77.

Councilwoman Ramirez motioned to approve the contract as stated. Seconded by Councilman Tamayo. Motion passed unanimously.

I. Streetlights in New Mammoth – Councilwoman Bailey

Councilwoman Bailey questioned the progress of getting the streetlights repaired in New Mammoth.

Mayor Foster stated that the lights should be repaired by the end of the month.

No action taken.

J. Hosting CAAG Regional Meeting – September 24 (location and menu) –Patsy Large

Mayor Foster advised the Council that every 18 months the Town of Mammoth hosts a Regional Meeting for CAAG. We will host the next meeting on September 24, and he thought having the meeting at the Community Center and the Council should show up and help pull this thing off.

Vice Mayor Barcelo motioned to purchase food and drinks for the Regional Meeting with a \$500 cap on spending. Seconded by Councilwoman Ramirez. Motion passed unanimously.

K. Merit Raise for Dario Estrada, PW Dept. – Juan Ponce

Vice Mayor Barcelo advised Council that Mr. Estrada has passed a wastewater certification and Mr. Ponce, Public Works Director has made a recommendation to increase his wage by fifty cents per hour.

Councilwoman Bailey motioned to allow Mr. Ponce increase Dario Estrada's pay by fifty cents per hour. Seconded by Vice Mayor Barcelo. Motion passed unanimously.

L. Non-existing Streets- abandon or put streets in-Debora S. Foster

Debora Foster stated that there are some streets that show on the maps that do not exist. Either the streets should be put in or abandoned and returned to the property owners.

Vice Mayor Barcelo advised that she should go to the Planning and Zoning with this issue.

No action taken.

M. Dungan Street West – Debora S. Foster

Ms. Foster stated that this street should go up the hill but has not been put in.

Mayor Foster stated that she should go to the Planning and Zoning to make recommendations.

N. 2004 Founder's Day Festival – Department Heads

On behalf of all of the Department Heads, Patsy Large, Town Clerk, asked the Council to allow the Department Heads to begin planning for the Founder's Day Festival.

Councilwoman Bailey motioned to approve planning for the Founder's Day Festival. Seconded by Councilman Baugher. Motion passed unanimously.

O. Change two part-time laborer positions to one full time laborer position – If approved adopt Resolution No. 2003-005 Salaries and Job Classification – Juan Ponce

Vice Mayor Barcelo motioned to table item "O". Seconded by Councilwoman Bailey. Motion passed unanimously.

P. Town Clean-up – Joe Tamayo

Councilman Tamayo stated that the Town looks better but it still need more cleaning, and keep putting pressure on the people to clean the property.

Councilwoman Ramirez stated that the Public Works Department has been busy clearing the tree limbs around town.

No action taken.

6. Executive Session – Pursuant to A.R.S. 38-431.03A(1)(3)

- A. Discussion or consideration of employment, assignment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public office (Discussion on Police Department)
- B. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

Vice Mayor Barcelo motioned to go into executive session for approximately 30 minutes with the Council, attorney and town clerk. Seconded by Councilwoman Bailey. Motion passed unanimously.

The Council went into executive session at 7:46 p.m.

At 8:30 p.m. Vice Mayor Barcelo motioned to go back into regular session. Seconded by Councilman Tamayo. Motion passed unanimously.

Mayor Foster called the Regular Meeting to order at 8:37 p.m.

7. Executive Session – Action pursuant to A.R.S. 38-431.03

- A. Discussion and/or action on employment, assignment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public office. (Discussion and/or action on Police Department)
- B. Discussion and/or action regarding legal advice with the attorney or attorneys of the public body.

No action required.

8. Council Comments

COUNCILMAN BUSTAMANTE THANKED ALL PARTICIPANTS WHO SUBMITTED LETTERS OF INTEREST IN THE PLANNING AND ZONING COMMITTEE.

COUNCILMAN GOFF STATED THAT THE STREETLIGHT LOCATED ON HIGHWAY 77 AS YOU COME INTO MAMMOTH STAYS ON 24 HOURS A DAY.

MAYOR FOSTER STATED THAT HE WOULD CONTACT BIA REGARDING THE LIGHTS

7. CALL TO PUBLIC

TINO SAIZ THANKED COUNCILMAN GOFF FOR BRINGING UP THE CONCERNS OF THE WATER QUALITY

RICARDO ROMO QUESTIONED THE ATTEMPT TO GET THE PROPERTY TAXES LOWERED FOR THE RESIDENTS IN MAMMOTH AND THE EFFECTS IT WOULD HAVE ON THE TOWN HE ALSO QUESTIONED THE PURCHASE OF A JACKHAMMER VERSES RENTAL. MR. ROMO QUESTIONED THE USE OF AN OXYGEN MONITOR FOR CONFINED SPACE AND QUALIFIED PERSONNEL HAVING PROPER TRAINING. HE ALSO REQUESTED THAT THE MAYOR RE-READ THE ORDINANCE PERTAINING TO THE PLANNING AND ZONING COMMITTEE

TINO SAIZ STATED THAT HE REQUESTED A WASH CLEANED OUT NEAR HIS HOUSE AND THE PUBLIC WORKS DEPARTMENT CLEANED IT OUT BUT LEFT THE GARBAGE IN A CULVERT

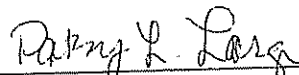
ROY ROMO HAD A COMPLAINT ABOUT THE WASTE MANAGEMENT TRUCK DRIVER WHO DUMPS GARBAGE ON THE STREETS AND DO NOT STOP TO PICK IT UP.

8. ADJOURN

COUNCILWOMAN BAILEY MOTIONED FOR ADJOURNMENT SECONDED BY COUNCILWOMAN RAMIREZ. MOTION PASSED UNANIMOUSLY.

MEETING WAS ADJOURNED AT 7:25 P.M.

I HEREBY CERTIFY THAT THE FOREGOING MINUTES ARE A TRUE AND CORRECT COPY OF THE MINUTES OF THE TOWN OF MAMMOTH COUNCIL MEETING HELD SEPTEMBER 17, 2002. I FURTHER CERTIFY THAT THE MEETING WAS CALLED AND DULY HELD.


TOWN CLERK

MAYOR

ATTEST:

TOWN ATTORNEY